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# ILLINOIS FOREST MANAGEMENT

A Biannual Newsletter for Illinois Landowners

Volume 2, 1992 No. 23

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The following article is reprinted from North Central Regional Publication 446, *Reduce Your Taxes with Conservation Easements*, written by Michigan State University professors Dr. Karen Potter-Witter, Department of Forestry, and Dr. Leighton Leighty, Department of Resource Development. This publication provides valuable information for landowners on how they may be able to use a conservation easement to reduce their income, property, and estate taxes, and reduce the risk that heirs will have to sell the property to pay the inheritance taxes. Some of the examples cited in this article reflect Michigan estate tax laws, and thus, tax implications may be higher or lower in another state. This publication is not intended to substitute for professional legal advice. If you feel a conservation easement might benefit you and your heirs, discuss this potential opportunity with your attorney and financial advisor.

## REDUCE YOUR TAXES WITH CONSERVATION EASEMENTS

### Conservation Easements and Rising Taxes

Interest in conservation easements has grown with the extreme increases in property values in many parts of the country. The resulting increased tax burden created some rather valuable estates that are "cash poor, but land rich." This shortage of cash sometimes means that even landowners who wish to preserve undeveloped land may have to sell or subdivide their land to pay the taxes. In addition to the payment of property taxes, estate taxes can be of particular concern. Since federal estate taxes are due within nine months of death, heirs have been forced to sell land to pay the inheritance taxes on it. Conservation easements are a tool which may help many landowners preserve their property intact.

### What is a Conservation Easement?

A conservation easement is a legal transfer of right to use all or part of a property for a certain purpose. Since the transfer



is of some but not all of the property rights, it is known as a transfer of "limited rights." Usually the owner gives up the right to develop, improve or modify his or her property and the buildings on it. The owner, however, keeps the right to sell, give away or transfer ownership of the property. He or she may continue to live on the property, develop a portion of it excluded from the easements, and keep any subsurface mineral rights.

In a conservation easement, the limited rights are transferred from a private landowner to a nonprofit conservation organization or government agency. The organization or agency is give the right to enforce the easement.

**Why Are They Used?**

Many conservation organizations and local governments are interested in conservation easements as a way to acquire "green space" in an area that is being developed quickly or which has special values to preserve.

Landowners may have several reasons to favor a conservation easement. They may wish to ensure that property is left in an undeveloped state even after their death. Landowners also use qualified conservation easements for financial and estate planning purposes. The easements allow landowners to reduce fair market value of the property (Example 1). Three benefits may result: 1) upon their death, the inheritance taxes on the property are reduced or avoided; 2) a federal income tax deduction can be taken for the gift of the development rights; and 3) current property tax assessments are lower.

**EXAMPLE 1. Decrease in Fair Market Value of Property Resulting From an Easement Donation**

Fair market value of scenic wooded property along Lake Michigan shore before easement donation	\$150,000
Fair market value of the property without the development rights	\$80,000
Value of the easement for charitable donation	\$70,000

**What Are the Estate or Inheritance Tax Benefits?**

Transferring the development rights for a parcel of land through a conservation easement reduces the value of the land and the estate or inheritance taxes, often substantially (Example 2). The benefits depend greatly upon the size of the estate. In some cases, the reduction may even lower the estate value below the \$600,000 minimum taxable estate for federal purposes and thus result in no estate taxes being levied. The strategy could save a family property from being sold to pay the federal estate taxes.

**EXAMPLE 2. Estate Tax Reduction From Donation of a Conservation Easement**

- \* Ann and Scott grant a conservation easement on Willow Ponds which prohibits any residential subdivision and restricts the future uses of the acreage to forest management.
- \* This reduces the value of Willow Ponds from \$1.5 million to \$0.5 million.
- \* The federal estate tax on their \$700,000 estate (\$500,000 for Willow Ponds plus \$200,000 in other assets, net of deductions and allowances) will be \$196,000 rather than \$476,000. The state estate tax (Michigan) will be \$14,000 rather than \$34,000.
- \* Result - their heirs do not have to sell Willow Ponds to pay the estate taxes.

Many states also have inheritance taxes. The same benefits hold for state taxes. For example, Michigan has an inheritance tax of from 2 to 10% with no minimum. The rate depends upon the size of the inheritance and the relationship of the beneficiary to the deceased. Landowners should check with their Department of Treasury for rates in their states.

**What Are the Income Tax Benefits?**

If the easement is a "qualified conservation contribution," the donor may deduct a portion of this from his or her taxable income. In general, for property amounts (rather than cash), up to 30% of the taxpayer's adjusted gross income is deductible each year for six years. Thus the maximum total value allowed to be deducted is 30% of adjusted annual gross income times six. Any value that remains after the sixth year

is lost for deduction purposes.

The accepted value of the donated easement is the value of the land without the easement minus the value of the land with the easement (i.e. it is the opportunity cost to the donor of giving up the development rights).

### What Determines a "Qualified Conservation Contribution?"

Section 170(h) of the Federal Internal Revenue Code defines "Qualified Conservation Contributions." This part of the tax code indicates the conditions necessary for a conservation easement to qualify for deductions as a charitable contribution. In general, the contribution must be of a qualified real property interest to a qualified organization exclusively for conservation purposes. Specifically, the easement must meet several criteria:

1. Be "an easement or other interest in real property that under state law has attributes similar to an easement." The donor can and does retain any rights to use his or her land, such as to sell it, give it away, or transfer ownership. He/She also can continue to live on the property, reserve the right to develop some excludable portion of the property or keep subsurface mineral rights.

2. Be donated to a "qualified conservation organization." This includes charitable conservation organizations or governmental units, but not private foundations.

3. Be "for conservation purposes" and for the "substantial and regular use of the general public or the community." This includes public outdoor recreation and education, protection of habitats or ecosystems, preservation of "historically important land areas" or preservation of open space that will clearly yield public benefit.

4. Be enforceable in perpetuity.

5. Have an agreement by the mortgage company that the easement remains in effect with any sale of the property, even if foreclosed.

6. Have "documentation sufficient to establish the condition of the property at the time of the gift."

### How to Execute a Conservation Easement

Conservation easements can be written for property in any state. The feasibility of using one for a particular property will depend upon the local property taxes, state inheritance taxes and the desire of an agency or organization to receive the easement. Because conservation easements are a fairly new tool in estate and tax planning, there are apparently very few estate planners and attorneys who have experience with them. Landowners should consult with an attorney experienced in this area and with their financial advisors or accountants to determine if they would benefit from granting a conservation easement. The legal transfer of the easement must be written very carefully so that the landowner's wishes are carried out and so that the maximum tax benefits are obtained.

### Suggested References

Diehl, Janet, and Thomas S. Barrett. 1988. *The Conservation Easement Handbook*. Land Trust Exchange and the Trust for Public Land. San Francisco, CA and Alexandria, VA.

Small, Stephen J. 1986. *The Federal Tax Law of Conservation Easements*. Land Trust Exchange. Alexandria, VA.

Small, Stephen J. 1988. *Preserving Family Lands*. Land Trust Exchange et al. P.O. Box 2242, Boston, MA 02107. \$6.00.

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SOURCE: Karen Potter-Witter and Leighton Leighty, Michigan State University Extension, North Central Regional Publication 446, August, 1992.

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## FARMERS HOME ADMINISTRATION'S CONSERVATION EASEMENT PROGRAMS

The Farmers Home Administration (FmHA) is a taxpayer-subsidized "federal lender of last resort" for farmers unable to obtain credit through private lending institutions. Because the government loans usually are secured by private farmland, the agency effectively is in a position of control over the fate of tens of millions of acres of U.S. agricultural land.

The 1990 Food, Agriculture, Conservation and Trade (FACT) Act, endowed FmHA with unprecedented authority to establish long-term protection of environmentally important resources on agricultural lands. The regulations to implement these provisions have been completed recently. Conservationists now have a tremendous opportunity to protect millions of acres of important resources by assisting FmHA in utilizing its new authorities.

FmHA deals with two major type of farm property: privately-owned lands that secure FmHA loans, and lands that are owned and held in inventory by FmHA. Farms come into FmHA ownership following either loan foreclosure or voluntary conveyance to the agency by seriously delinquent owners.

On private property that is used as security for existing or new FmHA loans, the agency can—at the request of the borrower—place conservation easements on a broad array of land types, to reduce the amount of the loan that must be repaid. These easements can be established whether the borrower is delinquent or current in making payments, or is simply applying for a new loan.

On its inventory properties, FmHA has two major conservation authorities. First, FmHA may transfer, for conservation purposes, ownership of the most environmentally important properties to federal or state conservation agencies upon request and without reimbursement. For properties that are not transferred but that contain wetlands, FmHA is required to place perpetual conservation easements on all or part of the wetland area prior to resale. FmHA also may establish conservation easements on other important resources such as endangered species habitats, riparian areas, etc.

### Conservation Easements on Private Property Securing an FmHA Loan

When FmHA borrowers cannot meet payment schedules, the agency begins offering a complex variety of loan servicing options that borrowers can choose or refuse to take advantage of. FmHA loan servicing has two primary objectives: to keep the farmer in business and to avoid or minimize losses to the government and taxpayers. Since passage of the 1985 Food Security Act (FSA), however, FmHA increasingly has been empowered to obtain conservation benefits for the public from its lending and loan servicing operations.

Section 1318 of the 1985 FSA established a new loan servicing mechanism, the "Farm Debt Restructure and Conservation Set-aside," by which FmHA can help farmers avert farm foreclosure. In a process similar to the "debt-for-nature" swaps devised by environmentalists to protect wilderness in third-world countries, the agency was authorized to reduce the principle of farmers' FmHA-administered delinquent loans in exchange for easements on land suitable for conservation, recreation or wildlife.

Under the 1985 FSA, however, this loan servicing option was used infrequently. It was not even available to borrowers until (1) they were seriously delinquent on payments, and (2) FmHA had determined that several other loan servicing options such as consolidation, rescheduling, reamortization, interest rate reduction and deferral were infeasible.

Under the 1990 FACT Act, this debt-for-nature option now is available to all FmHA borrowers, whether delinquent, current or new. That is, while most loan servicing options are available to borrowers only at a certain point in the loan servicing process, easements can be requested at any time by any borrower. In essence, even if a borrower cannot find a private buyer to purchase apart of the farm, the government still will reduce the debt by "buying" an easement on eligible land.

A delinquent borrower's principle can be reduced more than otherwise possible by using conservation easements, because easements can be used alone, or in combination with other loan servicing options. Other loan servicing options generally are used only one at a time, and are limited more than easements as to how much the debt can be reduced.

Although delinquent borrowers generally are considered likely candidates for easements, all loan servicing mechanisms are optional. FmHA cannot require even seriously delinquent borrowers to accept an easement or any other

loan servicing option. These merely are services available to help farmers stay solvent. Easements therefore are not promoted by the agency but **must be requested in writing by the interested borrower.**

For FmHA to begin processing a debt-for-nature swap, delinquent borrowers who have received Exhibit A, "Notice of the Availability of Loan Service and Debt Settlement Programs for Delinquent Farm Borrowers," must:

(1) return Attachment 2 ("Acknowledgement of Notice of Program Availability") or Attachment 4 ("Response to Notice Informing Me of FmHA's Intent to Accelerate My Loan"); and

(2) submit an ASCS photo of the farm showing the portion of the farm and approximate acres to be considered for an easement.

**Nondelinquent FmHA borrowers**, as well as persons who are not currently FmHA borrowers but are seeking a new FmHA loan, can benefit from this option. An easement can be placed to reduce the current or new loan's principle up front, to a maximum of 33 percent of the pre-reduction loan amount. To take advantage of this option, **the borrower must inquire** about reducing the principle amount of the current or new loan with an easement.

The proportion of existing debt reduced with an assessment is the same as the proportion of the farm securing the loan that is placed under easement, provided the amount reduced does not exceed the fair market value of the easement area. For example, consider a farmer who has used his entire 500-acre farm as collateral for \$200,000 in FmHA loans. If the farmer places 100 acres (20 percent) of the 500-acre farm under easement, then 20 percent (\$40,000) of the total principle amount secured by the 500 acres (not to exceed fair market value of the easement area) will be cancelled.

All easements are established for conservation purposes. Standard easement terms and conditions will be used, except where special language is needed to address unique or important features of the property that would not otherwise be addressed. Activities such as crop production are prohibited during the life of the easement.

Eligible lands include:

- \* Wetlands;
- \* Wildlife habitat of local, regional, state or national importance;
- \* Uplands in 100-year floodplain;

- \* Aquifer recharge areas;
- \* Areas of high water quality or scenic value;
- \* Historic or cultural property listed in or eligible for the National Register of Historic Places;
- \* Buffer zones adjacent to conservation easement areas;
- \* Areas adjacent to national, state or local conservation areas (National Wildlife Refuges, National Parks, state wildlife management areas, local natural areas, etc.); or
- \* Areas that SCS determines are not generally suited for cultivation (soils in Land Capability Classes IV, V, VI, VII, or VIII).

Except for wetlands and wildlife habitat, lands eligible for easements must have been considered row-cropped each year during the three-year period ending December 23, 1985.

FmHA will set up an easement review team to consist, at a minimum, of FmHA, the Soil Conservation Service (SCS) and—when considering wetland areas—the U.S. Fish and Wildlife Service (FWS). The team also may include state fish and wildlife agencies, conservation districts, state historic preservation authorities, other state and federal conservation agencies, and other interested entities eligible to manage the easement.

The team's task is to determine land suitability for conservation, designate the easement areas, formulate the easement management plan, and identify easement enforcement and management authorities. In addition, the team will determine whether the easement should be 50 years or longer, or perpetual. In order for a perpetual easement to be recommended by the team, the easement must be an especially important wildlife habitat for migratory birds or threatened, endangered or candidate species; serve as a wildlife habitat mitigation site for a permitted activity; or serve other significant functions.

Management of the easement area is identified by the review team and delegated to a qualified enforcement authority that may be a unit of federal, state or local government, or a non-governmental organization. Costs of managing the easement area are born by the enforcement authority; the landowner bears no management burden. Conversely, the landowner can realize no profit from compatible uses of the easement area.

This debt-for-nature program can provide substantial benefits. The existing or new borrower has less to pay back. Taxpayers, for their money, obtain cost-effective, long-term conservation easements on environmentally significant areas or marginal farmland. FmHA is relieved of the repetitive cycle of making loans on marginal, nonprofitable cropland.



Only 14 debt-for-nature easements have been established by FmHA to date (October, 1992). However, the potential resource benefits of this untapped program are vast. FmHA currently has about 150,000 borrowers, most of which are eligible for these debt restructure easements. About 30 percent of these borrowers are delinquent, and likely are searching for ways to reduce their debt. Furthermore, FmHA recently sent notices to default to about 20,000 borrowers. To capitalize on this tremendous opportunity, conservationists must inform FmHA borrowers about debt-for-nature easements and motivate them to inquire about easement opportunities.

### Conservation Easements on Inventory Properties

Section 1314(a)(2)(B) of the 1985 FSA authorized, but did not require, FmHA to place conservation easements on some of its inventory properties. Under a 1987 Memorandum of Understanding (MOU) with the FWS, FmHA has been cooperatively establishing perpetual conservation easements on some of its inventory lands, such as wetlands, identified by the FWS as environmentally important. With easements in place, the farms are sold out of inventory to recover as much of the loan amount as possible.

The 1990 FACT Act [Section 1813(h)] strengthened and refined this authority by requiring FmHA to establish perpetual conservation easements to protect and restore wetlands on all its inventory properties. FmHA maintains the authority to place additional easements on other environmentally important resources, but still is not required to do so.

To minimize impacts to the productivity of the cropland, the statute set upper limits to the amount of land that could be encumbered with an easement. The amount of prior-converted cropland placed under easement shall not exceed 10 percent of the total cropland existing on the property. Likewise, the amount of frequently cropped wetland placed under easement shall not exceed 20 percent of the total cropland existing on the property. The total amount of cropland placed under easement—prior converted cropland plus frequently cropped wetland—shall not exceed 20 percent of the total cropland existing on the property. Finally, no more than 50 percent of the existing forage land shall be placed under easement. Purchasers may waive these “10-20-50 limits” (and thus obtain a reduced purchase price) by requesting in writing to FmHA that more wetlands be placed under easement. As further protection for prospective purchasers of the property, the statute requires that the appraised value of the property reflect the value of the land due

to the placement of the easement.

In cases where a former owner or beginning farmer or rancher is acquiring an inventory property, the 1990 statute requires FmHA to ensure, to the extent possible, that the property is maintained as a “marketable agricultural production unit that is comparable to the parcel as acquired.” In the cases where marketability is an issue, the amount of prior converted cropland placed under easement shall be reduced as much as needed. If reduction of the prior converted easement fails to restore the property’s marketability, easements on the frequently planted cropland may be modified to allow continued cropping.

An “Easement Review Team” composed of FmHA, Agricultural Stabilization and Conservation Service (ASCS), SCS, and FWS representatives will make recommendations regarding whether the inventoried property with the easement remains a marketable agricultural production unit. The FmHA State Director makes the final determination.

According to the 1990 FACT Act, the SCS—instead of FWS—now is authorized to make the wetland determinations for FmHA easements, following Swampbuster procedures. A July 23, 1992 MOU with FmHA additionally instructs that the FWS will recommend easements and determine easement boundaries considering SCS’s wetland determinations, and the ASCS will make cropping history determinations.

The FWS assumes responsibility for management of recommended easement areas, unless a particular area is an inholding in another federal or state agency’s property, or the state fish and wildlife agency is willing to assume easement management responsibilities. The new landowner assumes no management responsibilities on the easement area.

The final rule (7 CFR Part 1955) implementing the new wetland easement program was published on July 17, 1992 (Federal Register Vol. 57, pp. 31636-31645). FmHA has commenced the easement and property disposition process on 3,332 inventory properties totaling 866,738 acres (as of September 1, 1992). No estimate is available of the acres of wetlands that eventually will be protected by this program.

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SOURCE: Donald F. McKenzie, Editor, *Linking Agriculture and Resource Conservation Programs*, Wildlife Management Institute, Washington, D.C., October 6, 1992.

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## A REMINDER TO OUR READERS....

The *Central Hardwood Notes* and the *Walnut Notes* are available from the Superintendent of Documents, U.S. Government Printing Office in Washington, D.C.. The *Central Hardwood Notes* contain information on managing and regenerating timber stands, growth and yield, economics, silvicultural and ecological fundamentals of growing central hardwoods, and information on managing forests for wildlife, recreation, water quantity and quality, and scenic beauty. This publication is a compilation of more than 50 years of research conducted by the Forest Service, private industry, universities and state natural resource agencies on hardwood forests of the Midwest.

The *Walnut Notes* provides growers with comprehensive information on stand establishment and maintenance, nut production, insect and disease problems, and recordkeeping.

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## DO YOU KNOW HOW TO MANAGE YOUR FOREST FOR SONGBIRDS?

Many Illinoisans own small woodlots that provide excellent habitat for a variety of songbirds. However, we rarely consider managing forests for songbirds. Margaret Brittingham, Extension wildlife specialist at Penn State University, has done considerable research on songbirds and makes the following observations about management of songbirds in a small woodlot situation.

As with other wildlife, management of songbirds involves providing food, water, cover and space, and secure nesting sites.

**Food**—During the nesting season (April-July) almost all songbirds, no matter what their diet is at other times of the year, feed their young caterpillars and other insects. Therefore, pesticides and herbicides that kill forest insects should be used sparingly, if at all, during this time of year. In addition to insects, songbirds depend on seeds, fruits and berries produced by a multitude of trees and shrubs including pines and other conifers, grapes, raspberries and blackberries, viburnums, dogwoods and sumac. Within your woodlot, try to maintain a diverse group of plants, preferably ones that provide fruit and seed at different times of the year.

**Water**—Songbirds obtain water from a number of sources including the food they eat, snow, morning dew, rain puddles, ponds and streams. In addition to drinking water, they use it for bathing, a necessity for keeping feathers in top condition. If streams, spring seeps or ponds are present on your property, minimize disturbance to these areas. If water is not present, consider building a small pond or putting out bird baths.

**Cover**—Cover is important for protection from predators and from inclement weather. Conifers provide protection from both, especially during winter months. Dense shrubs like raspberries and blackberries provide cover long after the berries are gone. Tree cavities are used as roosting sites for

many birds and mammals during winter. In addition to gaining protection from the wind and other adverse weather conditions, temperatures within the cavity are much warmer than external temperatures. Without these cavities, winter survival would be greatly reduced. Dead trees, dead branches on live trees and live trees with cavities should be retained as potential roosting sites.

**Space**—The types of songbirds present in your forest will depend on the structure and vertical distribution of the vegetation. When we think of space, we often think of horizontal space, but birds also divide the habitat up vertically—each species feeding in a different way at a different height. The greater the vertical distribution of vegetation, the more species can be accommodated. Maintaining your forest at different stages of succession is the primary means of providing vertical diversity, but this may not be possible if you only own a small woodlot.

**Secure Nest Sites**—To reduce disturbance to nesting songbirds, refrain from cutting trees during the nesting season. Songbirds generally nest between April and July; however, hawks and owls may be nesting as early as February. Two groups of songbirds are often adversely affected by forest management practices. These are cavity nesters and forest interior species. Cavity nesters require dead or dying wood for cavities. Intensive management practices often remove these, resulting in a shortage of nest sites. Whenever possible, retain dead snags, particularly ones of different size. These will be used for nesting in the summer, roosting in the winter and will provide homes for many other species of wildlife including raccoons, squirrels and screech owls. Although many species of wildlife benefit from edges and openings created within forests, others do not. The forest interior songbirds include many of the warblers, the scarlet tanager and the thrushes. These birds require large expanses of unbroken forest to reproduce successfully. Near edges and openings, they are unable to produce many young because of high predation and parasitism rates. Nest predators like the bluejay, grackle, crow, and raccoon are abundant near openings and edges and less common within the forest interior. The brown-headed cowbird, a brood parasite, shows a similar trend. The cowbird never builds its own nest, but lays its eggs in the nests of other birds who raise the cowbird's young, often at the expense of their own. Faced with high predation and parasitism rates, forest songbirds are unable to reproduce and eventually disappear from small woodlots and forest patches, persisting only in large tracts of forest.

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SOURCE: Michael King, Assistant Professor-Extension Forestry, Wildlife, and Fisheries, *Renewable Natural Resources Timely Tips*, University of Tennessee, Vol. 2, No. 2, 1992.

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## HOW DOES THE ENDANGERED SPECIES ACT AFFECT PRIVATE LANDOWNERS?

The fate of many species depends on the philosophy of private land management. Many realize the importance and value of retaining the diverse flora and fauna of our state for future generations. Landowners are concerned how the presence of threatened and endangered species will affect their unique set of land management objectives. Foremost among concerns is how their livelihood will be affected.

The Endangered Species Act of 1973 (ESA) protects wildlife and plant species and their habitats that may face extinction. It categorizes certain plant and animal species as threatened or endangered. The U.S. Fish and Wildlife Service determines which species may face extinction through man's activities or natural causes that alter habitats or directly eliminate the species. Species that face extinction throughout all or a large part of their range are classified as endangered. Threatened species are those likely to become endangered in the near future.

Candidates under active consideration for listing are classified a Category 1 or 2 species. Category 1 species have been determined to be in need of protection by listing as endangered or threatened. Category 2 species populations have declined and may be in need of protection by listing as endangered or threatened, but need further study to determine status. Category 1 and 2 species are not "protected" and do not carry the penalties associated with the endangered or threatened status.

The ESA prohibits "taking" of any endangered or threatened species. This section applies to both public and private actions. "Take" is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in such conduct. "Taking" of a species includes willfully harming an endangered or threatened animal. It also includes habitat destruction or degradation that significantly interferes with an essential behavior such as breeding, feeding, or seeking shelter. Maximum penalties for individuals violating the ESA include civil fines of \$25,000 per violation and criminal penalties of \$50,000 and/or one year



in prison per violation.

Potentially the greatest impact on landowners will come from pending changes in pesticide use and labeling information. A 1988 review of listed endangered and threatened species indicated that 20 percent of the protected species were listed, in part, because of pesticide use. Pesticides may delay recovery or stress a listed species.

The Environmental Protection Agency is developing interim county map bulletins of critical habitats and range maps of listed species as part of the pesticide label information. These bulletins will show pesticide use constraints within the counties affected. Interim bulletins will not become law until the final rules are developed and adopted. As a result, landowners could be asked to use ground rather than aerial application of pesticides in specific areas. They may be asked to use either a different formulation or a suitable substitute. Landowners may be asked to consider a different use for a parcel of land so contamination of adjacent lands and waterways is minimized.

The primary purpose of these proposed rules is to protect listed species by minimizing the rate of pesticide use, not to prohibit pesticide use. Landowners should be aware that either improper use, failure to follow adopted bulletins, or misapplication could be construed as take, harm, or harassment of a protected species. Additional penalties could arise from failure to comply with pesticide label instructions.

Landowners may be affected indirectly through involvement in Federal programs. The ESA requires federal agencies to ensure that activities they undertake, fund, or permit will not jeopardize the continued existence or result in detrimental impacts to designated critical habitat for endangered or threatened species. This applies to lands owned by the Federal government and State or private lands in which there is some type of federal involvement. Federal involvement includes "activities or programs of any kind authorized, funded or carried out, in whole or part, by a Federal agency."

If a landowner performs a management activity on their land that has Federal involvement and may affect a protected species, then the U.S. Fish and Wildlife Service must be contacted. The law sets forth a "consultation" process with specific guidelines. This does not apply to activities of an entirely private nature on private lands. Landowners should note that activities that are cost-shared or come under the auspices of a Federal program may not be exempt. If a protected species resides on their land and they are enrolled in a Federal program, then consultation may be required by

law. On private lands, the U.S. Fish and Wildlife Service will typically offer alternate management options.

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SOURCE: Masters, Ronald, *Oklahoma's Renewable Resources Newsletter*, Oklahoma State University.

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## ANIMAL WARNING DEVICES

A pair of eyes caught in the headlights. A stab at the brakes. A sickening thud. A deer careens off your car and lies twitching on the side of the road.

Avoidable? Yes and no. Yes, if you slow down and drive cautiously where deer-crossing signs are posted or you suspect animals may be feeding. No, if you rely on animal warning devices called "deer whistles," according to researchers and state police.

Deer whistles, mounted on the fronts of cars, trucks, and motorcycles, allegedly produce ultrasonic frequencies and/or audible sounds from the wind rushing through them. These sounds are supposed to repel or warn animals, particularly deer, elk, moose, and dogs, of oncoming vehicles.

The manufacturers claim the two European studies proved that the whistles work. Not so. They were initially tried in Europe about 25 years ago but research did not prove them to be successful. Now they are being sold in the United States with European claims. The study from Finland, that the advertisers refer to, states that from all the experiments conducted "it was unsure if the animals were not disturbed by the approach itself, so that the whistle sound was [not] the only disturbing factor." The second study, from Switzerland, concludes that the whistling sound, which is well within the human hearing range, is so weak that it is overlaid by the noise of the moving vehicle. A scientific advisory panel from the World Society for the Protection of Animals states, after extensive review, that there is no known data "that shows that such a device can actually stop an animal crossing the road, which is the main purpose of the device."

Even if the devices were effective, they would soon become clogged with insects and dirt (since they are mounted on the front of the vehicle) and would stop working.

The state police in Ohio, after months of testing, found no significant decrease in patrol car/deer accidents after the

warning devices were installed. In fact, more accidents were reported by the officers after the whistles were installed than before for the same period of time and stretches of highway. Test conducted in Utah, Georgia, and Wisconsin also conclude that deer whistles don't work.

The odds are you won't hit a deer. Your best protection is to drive defensively, particularly as the sun sets. This is when most vehicle/deer accidents occur. Slow down when you see one deer. More often another is right behind it.

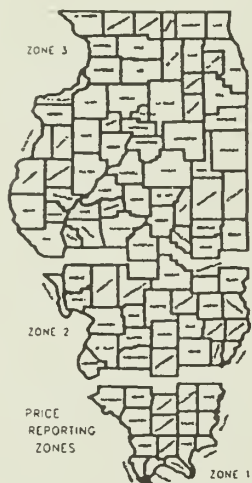
Until there is solid evidence other than personal testimonials that deer whistles are effective, keep your money in your pocket.

SOURCE: Leonard R. Askham, *Oregon's Wildlife Resources*, Oregon State University, Vol. 2, No. 3, 1992; also appeared in Washington State University, Cooperative Extension Service, EB1677.

ILLINOIS  
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U.S. DEPARTMENT OF AGRICULTURE  
ILLINOIS DEPARTMENT OF AGRICULTURE

ILLINOIS TIMBER PRICES

ILLINOIS  
DEPARTMENT OF  
CONSERVATION  
life and land together  
DIVISION OF FOREST RESOURCES  
600 North Grand Avenue West  
Springfield, Illinois 62706  
Phone: (217) 782-2361



December 4, 1992  
PRICES PAID ILLINOIS TIMBER PRODUCERS  
MAY 1992 THROUGH AUGUST 1992

Summer sawtimber prices paid Illinois timber growers were mixed for both stumpage and FOB compared to last winter and the previous summer. Of the timber buyers reporting volume of their 1991 operations, 39% indicated their volume was 500 thousand board feet or higher. This is down from 45% in 1990.

This report is prepared by the Illinois Agricultural Statistics Service in cooperation with the Illinois Division of Forest Resources. Unless otherwise indicated, prices shown in this report are prices reported by licensed timber buyers. The cooperation of those timber buyers who participated in the survey is greatly appreciated.

Illinois is divided into three price-reporting zones, based on timber resources, similarity, utilization standards and practices and soil types. Zone 1 is the Southern Unit, Zone 2 the Claypan Unit and Zone 3 the Prairie Unit. Ranges of prices for each zone are shown on the back of this report.

This report can be used only as a guide for determining the market value of timber. General market and economic conditions are the major price-determining factors. Certain local considerations such as accessibility, site and terrain, distance to market, size of sale, and tree size and quality also affect the price received. For technical, marketing or management assistance, contact your local State Forester, or the Division of Forest Resources, Illinois Department of Conservation, 600 North Grand Avenue, West, Springfield, Illinois 62706.

AVERAGE PRICES FOR STUMPAGE AND F.O.B. IN SELECTED PERIODS  
SAWTIMBER - \$ PER M BD. FT.

SPECIES	May 1991-August 1991		November 1991-February 1992		May 1992-August 1992	
	Stumpage	F.O.B. Mill	Stumpage	F.O.B. Mill	Stumpage	F.O.B. Mill
Ash	114	223	133	249	140	255
Basswood	69	196	95	203	84	166
Beech	49	130	46	119	47	127
Cottonwood	40	116	40	119	45	118
Sweet Gum	43	118	55	130	54	131
Elm & Hackberry	45	121	52	134	54	132
Hickory	47	133	52	139	58	134
Soft Maple	53	139	62	148	56	140
Sugar Maple	58	153	87	184	86	177
Black Oak	83	150	105	216	115	192
Pin Oak	55	126	62	128	57	129
Red Oak	130	247	183	312	179	283
White Oak	143	261	183	304	167	272
Yellow Poplar	70	175	104	198	87	161
Sycamore	43	121	47	128	50	124
Black Walnut	319	569	350	506	329	497
Woods Run Bottomland	65	132	62	148	61	131
Woods Run Upland	95	180	113	213	115	181

FACE VENEER - \$ PER M BD. FT.

Red Oak	458	663	421	757	527	763
White Oak	898	1,317	913	1,428	965	1,503
Walnut	1,200	1,817	1,511	2,006	1,611	2,330

COOPERAGE - \$ PER M BD. FT.

White Oak	217	343	196	333	250	425
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UNPEELED PULPWOOD - \$ PER TON

Ton	1.75	--	1.88	14.63	1.95	13.50
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Timber Prices  
May 1992-August 1992  
December 4, 1992

MOST COMMONLY REPORTED PRICES PAID ILLINOIS TIMBER PRODUCERS May 1992 - August 1992							
PRODUCT	UNIT	Zone 1		Zone 2		Zone 3	
		Stumpage	F.O.B. Mill	Stumpage	F.O.B. Mill	Stumpage	F.O.B. Mill
1. <u>Sawtimber</u>				<u>Dollars</u>			
Ash	M bd. ft.	50 - 220	120 - 350	45 - 250	100 - 450	60 - 160	150 - 400
Basswood	M bd. ft.	90	130 - 140	40 - 75	100 - 175	50 - 175	115 - 320
Beech	M bd. ft.	30 - 60	100 - 140	-	110 - 140	-	150
Cottonwood	M bd. ft.	30 - 55	100 - 150	30 - 65	100 - 140	30 - 60	100 - 150
Sweet Gum	M bd. ft.	40 - 60	100 - 150	70	118 - 150	-	150
Elm & Hackberry	M bd. ft.	30 - 60	100 - 180	30 - 70	120 - 150	30 - 100	100 - 200
Hickory	M bd. ft.	50 - 80	80 - 200	40 - 70	120 - 150	50 - 80	100 - 150
Soft Maple	M bd. ft.	40 - 80	100 - 150	40 - 70	120 - 160	45 - 80	145 - 200
Sugar Maple	M bd. ft.	50 - 175	120 - 200	40 - 120	120 - 180	60 - 200	150 - 300
Black Oak	M bd. ft.	50 - 250	120 - 350	60 - 200	100 - 250	60 - 150	110 - 300
Pin Oak	M bd. ft.	40 - 70	120 - 150	40 - 70	100 - 150	60 - 65	110 - 150
Red Oak	M bd. ft.	50 - 300	180 - 400	60 - 350	100 - 400	75 - 300	150 - 400
White Oak	M bd. ft.	50 - 230	150 - 400	60 - 280	100 - 400	95 - 250	150 - 350
Yellow Poplar	M bd. ft.	50 - 150	120 - 218	45 - 80	100 - 180	-	150
Sycamore	M bd. ft.	30 - 65	100 - 140	30 - 70	100 - 150	30 - 60	100 - 150
Black Walnut	M bd. ft.	200 - 450	250 - 576	150 - 500	400 - 600	250 - 400	400 - 600
Woods Run Bottomland	M bd. ft.	50 - 80	130 - 150	40 - 80	120 - 150	40 - 80	100 - 150
Woods Run Upland	M bd. ft.	100 - 200	120 - 300	40 - 200	120 - 300	95 - 200	150 - 250
STATEWIDE							
		Stumpage		F.O.B. Mill			
2. <u>Face Veneer</u>							
Red Oak	M bd. ft.	190 - 1,350		600 - 850			
White Oak	M bd. ft.	200 - 2,000		1,000 - 2,385			
Walnut	M bd. ft.	600 - 3,500		1,200 - 3,100			
3. <u>Cooperage</u>							
White Oak	M bd. ft.	200 - 350		400 - 450			
4. <u>Pulpwood</u>							
Unpeeled	Ton	1.75 - 2.00		13.50			

LOG SCALES USED BY REPORTING BUYERS		
<u>Scale</u>	<u>Percent Using</u>	
Doyle	98	
Scribner	1	
International	1	

CUSTOM SAWING BY THOSE REPORTING		
<u>Region</u>	<u>Percent Reporting</u>	<u>Rates Reported</u> <u>\$/M bd. ft.</u>
Zone 1	15	140 - 150
Zone 2	24	100 - 250
Zone 3	38	100 - 250
ILLINOIS	26	100 - 250

VOLUME OF 1991 OPERATIONS				
Size in (000) bd. ft.	Zone 1 %	Zone 2 %	Zone 3 %	All %
1 - 100	26	29	30	29
100 - 500	22	36	35	32
500 - 1000	15	14	11	13
1,000 - 3000	22	7	13	13
3,000 +	15	14	11	13

Cooperage is the manufacture of barrels. Face veneer is logs cut into thin sheets or "veneer" used mostly by furniture builders. Pulpwood is used in making paper, fiberboard, and similar products. M bd. ft. means thousand board feet. Sawtimber refers to logs that are cut into lumber or timbers. F.O.B. refers to the price paid for timber delivered to the mill.

MARKED TIMBER SALES - MAY 1992 - AUGUST 1992	
STATEWIDE STUMPAGE*	
Woods Run Upland	\$104-\$402/M bd. ft.
Woods Run Bottomland	Insufficient Data
*Prices supplied to District Foresters by seller, may include some veneer.	

Jerry Clampet  
State Statistician

Jay Wells, Garry D. Kopley,  
Agricultural Statisticians

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